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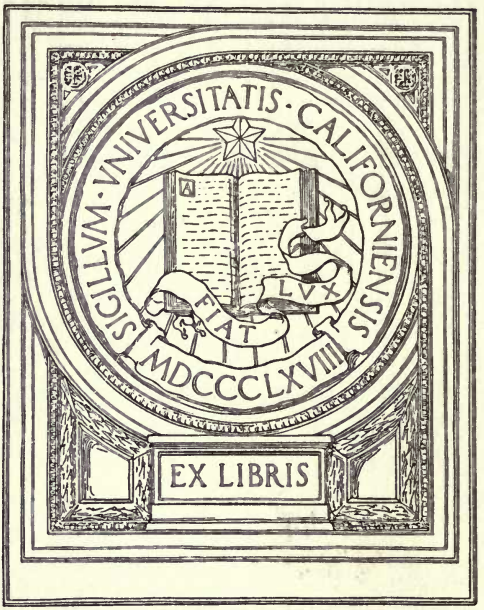
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Miscellaneous

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State Department of Weights and Measures

Sacramento, Cal.

CHARLES G. JOHNSON
Superintendent

CALIFORNIA STATE PRINTING OFFICE
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WEIGHTS AND MEASURES.

CONSTITUTIONAL PROVISION.

ARTICLE XI.

SEC. 14. The legislature may by general and uniform laws provide for the inspection, measurement and graduation of merchandise, manufactured articles and commodities, and may provide for the appointment of such officers as may be necessary for such inspection, measurement and graduation. [*Amendment adopted October 10, 1911.*]

WEIGHTS AND MEASURES ACT.

An act to establish a standard of weights and measures in the State of California; to regulate weights and measures and weighing and measuring instruments and devices and providing for the inspection and sealing thereof; to prevent the use and sale of false weights and measures and weighing and measuring instruments and devices; providing for the inspection, measurement and weighing of goods, commodities, wares, packages and amounts of commodities kept for sale or in process of delivery; to prevent the sale of goods, wares and merchandise by false weights and measures; to provide penalties for the violation of the provisions of this act; for the admission in evidence of copies of the state's standard of weights and measures; providing for the appointment of officers to enforce and carry into effect the provisions of this act including a State Superintendent of Weights and Measures and his deputy, sealers of weights and measures and their deputies; defining the powers and duties of such officers; and making an appropriation to carry this act into effect.

[Approved June 16, 1913; Stats. 1913, p. 1086. Amended, Stats. 1915, p. 1312; Stats. 1917, p. 1647.]

Office of superintendent of weights and measures created.

SECTION 1. There is hereby created the office of State Superintendent of Weights and Measures. Within thirty days after this act becomes effective, the governor shall appoint a suitable person as State Superintendent of Weights and Measures. Wherever in this act the term superintendent or state superintendent is used, it shall be taken as referring to and meaning State Superintendent of Weights and Measures.

Term.

SEC. 2. The term of office of State Superintendent of Weights and Measures shall be four years, or until his successor shall have been appointed and qualified, but he shall always be subject to removal at the pleasure of the governor.

Salary.

The salary of State Superintendent of Weights and Measures shall be four thousand dollars per annum, payable in the same manner as other state officers are paid.

Bond.

Before entering upon his duties he shall execute a bond to the state in the sum of five thousand dollars, conditioned upon the faithful performance of his duties. [*Amendment, Stats. 1917, p. 1648. Also amended, Stats. 1915, p. 1312.*]

Deputies.

SEC. 3. The state superintendent may appoint a deputy, who shall have the same powers as the state superintendent. Such deputy shall receive a salary of eighteen hundred dollars per

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annum, payable in the same manner as other state officers are paid. He shall be at all times subject to removal at the pleasure of the state superintendent. The state superintendent may also appoint additional deputies from time to time to serve as sealers of weights and measures at the request of counties, as provided in section sixteen of this act. Such deputies when actually employed shall be paid at the rate of one hundred and fifty dollars per month by the county engaging their services and not by the state. They also shall receive their actual traveling expenses from such county. [*Amended, Stats. 1915, p. 1313.*]

Traveling and office expenses.

SEC. 4. The state superintendent and his deputy shall each be allowed their actual traveling expenses, to be approved by the state board of control in the same manner as other claims against the state. The state superintendent shall also be allowed necessary office expenses to be approved by the state board of control in the same manner as other claims against the state.

Standards of weights and measures.

SEC. 5. The standards of weights and measures received from the United States under a resolution of congress approved June 14, 1836, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or renewal thereof, and such as shall be procured by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards by which all state, county and municipal standards of weights and measures shall be tried, proved and sealed.

Custody of standards.

SEC. 6. The standards referred to in the preceding section shall be kept by the state superintendent in a safe and suitable place in his office from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them at least once in ten years to the national bureau of standards for certification. Upon demand the secretary of state shall deliver to the state superintendent all standards now under the control and in the possession of the secretary of state in his capacity of ex officio state sealer of weights and measures. The state superintendent shall thereupon submit such standards received from the secretary of the state to the national bureau of standards for certification, and he shall replace such standards as are incorrect and purchase such additional standards as shall be necessary to complete and make up a complete standard of weights and measures as required by this act. He shall also purchase

such apparatus as shall be found necessary to a proper prosecution of the work of the office. The State Superintendent of Weights and Measures may establish tolerances and specifications for commercial weighing and measuring apparatus for use in the State of California similar to the tolerances and specifications recommended by the national bureau of standards, and he may establish a standard net weight, or net measure, or net count of any commodity, produce or article except any manufactured commodity consisting of four or more staple ingredients, and prescribe such tolerances for same as he may in his best judgment deem necessary for the proper protection of the public. Any person violating such standards or tolerances shall be guilty of a misdemeanor. [*Amended, Stats. 1917, p. 1648. Also amended, Stats. 1915, p. 1313.*] Tolerances.

SEC. 8. The state superintendent shall, at the request of the legislative body of any county, city, town, or city and county, furnish to said county, city, town or city and county, copies of the standard weights and measures of the state; such copies shall be furnished at the expense of the county, city, town or city and county requesting the same. He shall upon request of the legislative body of any county, city, town, city and county or upon the request of a sealer of weights and measures of any such county, city, town or city and county, appointed pursuant to the provisions of this act, test and accurately approve copies of the state's standards of weights and measures procured by any such county, city, town or city and county to be used by a sealer of weights and measures in the performance and discharge of his duties. Copies furnished under the provisions of this section or copies tested and approved by the state superintendent under the provisions of this section shall be true and correct; shall be sealed and certified to by the state superintendent and stamped with the letter "C." Such copies need not be of the same material or construction as the standards of the state and such copies may be furnished in any suitable materials or construction that the county, city, town, or city and county requiring the same may specify, subject to the approval of the state superintendent. Copies furnished cities, etc. Testing.

SEC. 9. The state superintendent shall inspect and correct the standards used by each county, city, town and incorporated city and county of the state, and at least once in two years compare the same with those in his possession and keep a record of the same, and Inspection of standards used by cities, etc.

where not otherwise provided by law he shall have general supervision of the weights and measures and weighing and measuring devices offered for sale, sold or in use in the state. Sealers of weights and measures appointed under the provisions of this act shall, upon the request of the state superintendent, deliver to the state superintendent at his office the copies of the state's standards of weights and measures in their possession, and used in the discharge and performance of their duties, for verification and certification by the state superintendent.

Expense.

The actual expense of such comparison and verification shall be borne by the county, city, town or city and county whose weights and measures are compared and verified. In addition to the standards heretofore referred to and required to be kept by the state, the state shall

Complete set of copies.

also have a complete set of copies of said original standards of weights and measures adopted by this act, which shall be used for adjusting county and municipal standards by the state superintendent and his deputy in the performance of their duties, and the original standards shall not be used except for the adjustment of this set of copies and for certification purposes. Additional complete sets of copies of such original standard of weights and measures may be purchased by the superintendent when the same are necessary for use by any deputy state superintendent employed by counties under section sixteen of this act. The state, however, shall be reimbursed for the purchase of such copies by the county in which the same are used, in the manner hereinafter provided.

Testing of weights and measures used by state institutions.

SEC. 10. The state superintendent or his deputy shall, at least once annually and as often as requested by the state board of control or the executive officers of the institutions herein referred to, test the scales, weights and measures used in checking the receipt and disbursement of supplies in every institution conducted by the state, and he shall report in writing his findings to the executive officer of the institution concerned and to the state board of control.

Inspecting work of local sealers.

SEC. 11. The state superintendent or his deputy shall at least once in two years visit the various cities and counties of the state and inspect the work of the local sealers of weights and measures, and in the performance of said duties he or his deputy may inspect the weights, measures, balances or any other weighing or measuring devices of any person, firm or corporation. The state superintendent and his

deputy shall have all the powers of sealers of weights and measures provided for in this act.

Charges against sealers neglecting duties.

SEC. 12. The state superintendent, if he finds that any sealer of weights and measures appointed under the provisions of this act, or any sealer or deputy sealer appointed by any city or county in this state, prior to this act, has refused or neglected to perform the duties of his office or refused to accept the recommendations and instructions of the state superintendent or is guilty of any malfeasance in office or who is incompetent, shall present to the body, officer or board having power to remove such sealer or deputy sealer of weights and measures a written charge and accusation based upon and clearly stating the alleged offense or offenses of such sealer or deputy sealer and request such body, officer or board to hear and determine such charge and accusation. Upon receipt of such charge and accusation, it shall be the duty of the body, officer or board with whom the same have been filed to make an order setting the same for hearing at a time which shall be not less than ten nor more than twenty days from the date upon which such charge and accusation shall have been filed, and shall in such order fix the time and place for such hearing. A copy of such charge and accusation, together with a copy of such order, shall be served upon the accused at least seven days prior to the time fixed for such hearing; *provided*, that in the event he shall absent himself from his usual place of business, or office, such service may be made by depositing such copies in a conspicuous place therein or by leaving the same at the last known place of residence of the accused, within the time above limited. At such hearing the accused shall have the right to be represented by council, if he so desires, and to produce witnesses and documentary evidence in his defense. If, upon such hearing, he be found guilty of malfeasance in office, or adjudged to be incompetent to perform the duties of his office, the body, officer or board before whom such hearing is had must forthwith remove him from office. If he be found guilty of any of the other offenses herein enumerated he may be punished by removal or by suspension without pay for a period not exceeding thirty days, as such body, board or officer may determine. If he has reason to believe that any such sealer or deputy sealer of weights and measures has committed any of the offenses specified in section seven hundred and seventy-two of the Penal Code, the state super-

Hearing.

Copy furnished accused.

If found guilty.

Accusation to superior court.

intendent may, in his discretion, present an accusation to the superior court of the county in which the accused is employed, which shall thereupon be heard and determined by such court in the manner provided by law. The remedies provided in this section are cumulative merely, and shall not in any wise detract from the right of the appointing power to remove at will any such sealer or deputy sealer of weights and measures. It shall be unlawful for the state superintendent, his deputies, or any sealer of weights and measures to keep for sale, or offer or expose for sale, or to sell to any person, firm, or corporation, or dealer in goods, wares and merchandise, doing or intending to do business in the State of California any weighing or measuring instrument, or to be interested directly or indirectly in the sale of any weighing or measuring instrument. [*Amended, Stats. 1915, p. 1313.*]

Unlawful to sell weighing instruments.

Investigate conditions in state.

SEC. 13. It shall be the duty of the state superintendent to investigate conditions in the various counties, cities and towns of the state in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers. The state superintendent shall annually report to the governor, and shall prior to each regular session report to the legislature the work of his office, and shall make such recommendations as he shall deem proper and necessary.

Instructions to sealers.

SEC. 14. The state superintendent shall issue instructions and make recommendations to the county and municipal sealers of weights and measures, appointed under the provisions of this act, and such instruction and recommendations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties.

Record of acts done.

SEC. 15. The state superintendent shall keep in his office a complete record of all acts done by him and a record of all prosecutions for violation of the provisions of this act, and the reports of the various sealers of weights and measures appointed under the provisions of this act, which records and reports shall always be open to the public.

Office of sealer of weights and measures created.

SEC. 16. The office of sealer of weights and measures is hereby created. Whenever in this act the term "sealer" is used, the same shall be taken to mean and refer to sealer of weights and measures. Within one hundred and twenty days after the approval of this act by the governor, it shall be the duty of the board of supervisors of each of the counties of the state

except as hereinafter provided, to appoint a sealer of weights and measures for their respective counties; said sealer shall receive as compensation the sum of five dollars per day for each day actually employed in the service of the county, to be audited and paid as other claims against the county. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties. The term of office of such sealer of weights and measures shall be four years, but he shall be subject to removal at the will of such board. A sealer appointed under this act may, with the consent of the board of supervisors of the county appointing him, appoint a deputy or deputies when necessary or expedient to carry out the provisions of this act. The compensation of such deputies shall be the same as the county sealer and paid in the same manner. Such deputies shall always be subject to removal by the sealer of weights and measures. In case the legislative body of any county or city and county shall not appoint a sealer for such county or city and county within thirty days after written request for such appointment by the state superintendent, is received, said state superintendent shall assign as soon as practicable a deputy superintendent who shall perform all the duties of sealer in such county or city and county as provided in this act to be performed by county or city sealers and to provide copies of the original standards of weights and measures for use by said deputy in such county. The actual cost of such services shall be paid by the county in the same manner in which other claims against the county are paid. The amount to be paid shall be at the rate of one hundred and fifty dollars per month for the time such deputy superintendent is employed in such county in addition to the actual traveling expenses of such deputy made necessary by such appointment. The county shall also stand its proportionate share of the actual cost of the set of copies to be used in such county by such deputy, at the rate of one-twelfth of the cost thereof for every month such copies are employed therein during the first year of their use, and in that event such county may at any time pay the balance of the cost of such copies and become the owner thereof, or the county may pay rental to the state for the use of such copies at the rate of ten per cent per annum of the cost price thereof. [*Amended, Stats. 1915, p. 1315.*]

Compensation.

Term.

Deputies.

Failure of legislative body to appoint.

Cost of copies.

Appointment of sealers.

Compensation.

Traveling expenses.

Term.

In counties of second class with charters.

In counties of third class.

SEC. 17. The legislative body of any county or consolidated city and county of the first to the thirty-fifth classes, both inclusive, and the legislative body of any city or town may appoint a sealer of weights and measures, fix his compensation and provide for the appointment by the sealer of such number of deputies as the said legislative bodies may deem necessary and expedient. Such sealer shall receive as compensation the sum of one hundred fifty dollars per month, or at the rate of one hundred fifty dollars per month for each month or part thereof actually employed in the service of such county, or city and county, or city and town. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties; and such deputies shall each receive as compensation the sum of five dollars per day for each day actually employed in the service of such county, or city and county, or city and town. They shall be allowed their traveling expenses actually and necessarily incurred in the performance of their duties. The term of office of sealer of weights and measures appointed under the provisions of this section shall be four years. He shall be subject to removal by the power appointing him. Deputies appointed under the provisions of this section by a sealer of a county, city and county, or city, or town, shall be subject to removal by the sealer.

In counties of the second class whose charters provide for a department of weights and measures, the appointment of a sealer and deputies, the number of such deputies and the term of office thereof shall be as provided in said charter; *provided*, that the sealer shall receive for compensation the sum of three thousand dollars per annum, and one deputy, to be known as chief deputy, shall receive as compensation the sum of two thousand four hundred dollars per annum. Deputies shall receive as compensation the sum of one thousand eight hundred dollars per annum, each payable in the same manner as the salaries of other county officers are paid. In counties of the third class the sealer shall receive as compensation the sum of one thousand eight hundred dollars per annum, and deputies shall each receive as compensation the sum of one thousand five hundred dollars per annum, payable in the same manner as the salaries of other county officers are paid.

Appointment of deputies in certain counties by state superintendent.

In all counties other than those of the first to the thirty-fifth classes, both inclusive, no county sealer or deputies shall be appointed by the legislative body thereof, but the State Superintendent of Weights and Measures shall assign to such counties, or groups of such counties, such deputy superintendents as may be necessary, but not more than one to each of such counties. Such deputies shall have jurisdiction over such county, or group of counties, as the state superintendent may designate, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. They shall have all the powers and perform the duties of a sealer of weights and measures. They shall be paid by the county wherein employed, five dollars a day for each day employed therein, which shall not exceed one hundred and twenty days in any one county in any one year, and they shall also receive from such county their actual traveling expenses. The terms of office of all sealers and deputy sealers in all counties other than those of the first to the thirty-fifth classes, both inclusive, shall terminate when this section becomes effective. [*Amended, Stats. 1917, p. 1649.*]

Jurisdiction of sealers.

SEC. 18. The jurisdiction of a sealer appointed or a deputy state sealer employed for a county shall extend over the entire territorial limits of the county appointing such sealer, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. The jurisdiction of the sealer of weights and measures appointed by the legislative body of any city or town under the provisions of this act shall extend over the entire territorial limits of such city or town.

Sealers appointed heretofore not affected.

SEC. 19. This act shall not affect the appointment of any sealer of weights and measures heretofore appointed for any city, town or city and county under any law, but such sealers shall perform the duties of the office under the provisions of this act, and shall possess the same powers and duties as sealers appointed under the provisions of this act.

Copies of standards for counties, etc.

SEC. 20. Except as herein otherwise provided the board of supervisors or legislative body of each county, city, town and city and county of the state shall, upon the appointment of a sealer under the provisions of this act, provide and procure for their respective county, city, town and city and county, copies of the state's standards of weights and measures at

the expense of such county, city, town or city and county; such copies shall be verified and certified to by the State Superintendent of Weights and Measures as in section eight of this act provided.

Copies to be tested.

SEC. 21. Sealers appointed under the provisions of this act shall, at least every two years, cause to be proved and tested by the state superintendent copies of the state's standards in their possession. If, upon such inspection, or any inspection by the state superintendent, the copies of the weights and measures tested shall be found to be incorrect, the same shall be adjusted, if the same are susceptible of being adjusted, but if not, new copies shall be procured and certified to in the same manner as original copies.

Copies deemed correct.

SEC. 22. In any prosecution for a violation of any of the provisions of this act any copy of the standards of weights and measures of the state furnished, procured and certified to under the provisions of this act, shall be admitted in evidence upon the trial, and such copy shall be deemed prima facie true and correct.

Duties of sealers.

SEC. 23. It shall be the duty of any sealer of weights and measures to carefully preserve all copies of the standards of weights and measures in his possession, and to keep the same in a safe and suitable place when not actually in use; and it shall be his duty annually and at such other times as the state superintendent may require, to file with such superintendent a written report of the work done by him of the weights, measures, weighing and measuring instruments inspected or tested by him and of the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this act and of all other matters and things pertaining to his duties or which may be required by the state superintendent.

Dealers in weighing and measuring instruments to have same tested.

SEC. 24. Every person using or keeping for use or having or offering for sale weights, scales, beams, measures or every kind, instruments or mechanical devices for weighing or measurement, and tools, appliances and accessories connected with any or all of such instruments or measures within a county, city, town, or city and county in which there has been appointed a sealer under the provisions of this act, shall within three months after the appointment of such sealer cause all such weights, scales, beams, measures of every kind, instruments or mechanical device for weighing or measurement, and tools, appliances and acces-

sories connected with any or all such instruments or measures to be sealed and marked by the sealer of weights and measures of the county, city, town or city and county in which the same are used, kept for use or kept or offered for sale.

Instruments must be tested before sale.

SEC. 25. No weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, nor tools, appliances or accessories connected with any or all of such instruments or measures shall be used, kept for use, sold, offered for sale or kept for sale in any county, city, town or city and county, in which there is a sealer appointed under the provisions of this act and in which for three months there has been continuously in office in such county, city, town or city and county a sealer, unless such weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures shall have been sealed and tested as in this act provided.

Instruments which may be sold and used.

SEC. 26. When any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measurements have been tested and found correct by any sealer appointed under the provisions of this act, the same may be used, kept for use, offered for sale, sold, or kept for sale within any county, city, town or city and county of this state for one year without any further test. Any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures, which have been tested and sealed and certified to as correct by the national bureau of standards, may be kept for sale, sold or offered for sale without being first tested and sealed by a sealer as in this act provided. But all such weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures shall always be subject to inspection and testing as herein provided, notwithstanding that the same have been tested and sealed either by a sealer appointed under the provisions of this act or by the national bureau of standards.

Subject to inspection.

Testing of devices which must be assembled before use.

SEC. 27. Any scale, beam or mechanical device for weighing or measuring, which, after being sold and before being used for weighing or measuring it is necessary to assemble or set up, may be sold, kept for sale, or offered for sale without first being tested and sealed as in this act provided; but such scale, beam or mechanical device for weighing or measuring, before being used for weighing or measuring must be tested and sealed as in this act provided.

Testing upon request of resident.

SEC. 28. Upon a written request of any resident of a county, city, town or city and county, in which there has been appointed a sealer under the provisions of this act there appearing reasonable ground therefor, the sealer for such county, city, town or city and county shall test or cause to be tested, as soon thereafter as is practicable, the weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measurements used in buying or selling by the person, firm or corporation, designated in such request.

Testing upon request of firm, etc., using.

Upon the written request of any person, firm or corporation, using, having for use, selling, keeping or offering for sale any weight, scale, beam, measure of any kind or instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures, in any county, city, town, or city and county in which there has been appointed a sealer under the provisions of this act, the sealer for such county, city, town or city and county shall test or cause to be tested, as soon thereafter as is practicable, the weights, scales, beams, measures of any kind, instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures belonging to or used by such person, firm or corporation; but such written request shall not relieve the person, firm or corporation making it from any violation of the provisions of this act or of the responsibility provided in this act for using, keeping for use, selling or offering to sell, or keeping for sale, any false weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures.

Not relieved from violation.

Duties of sealers.

SEC. 29. The sealer shall, within his county, city, town or city and county, inspect, try, test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, kept for the purpose of sale, sold, or used by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area, weight or measurement of quantities, things, produce, articles for distribution or consumption, purchased or offered or submitted by such person or persons for sale, hire or award and ascertain if the same are correct; and he shall have the power to and shall, from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale or sold, or in the process of delivery, in order to determine whether the same contain the quantity or amount represented and whether they are being offered for sale or sold in accordance with law and may seize for use as evidence any such amounts of commodities or package or packages which shall be found to contain a less amount than that represented. He shall, at least once in each year, or as much oftener as he deems necessary, see that the weights, measures and all weighing and measuring apparatus, used in his county, city, town, or city and county, are correct. He may, for the purpose above mentioned, and in the general performance of his duty, without formal warrant, enter or go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk dealer, driver of a coal wagon, ice wagon or delivery wagon or the driver of any wagon containing commodities for sale or delivery and, if necessary, require him to proceed to some place which the sealer may specify for the purpose of making the proper tests.

Weigh packages.

Violators prosecuted.

SEC. 30. Any sealer having knowledge of a violation of any of the provisions of this act, or of any law relating to weights and measures shall cause the violator to be prosecuted.

Marking weights and measures tested, etc.

SEC. 31. Whenever a sealer compares weights and measures or weighing or measuring instruments and finds that they correspond, or causes them to correspond, to the standards in his possession, he shall seal or mark, under his name, such weight or measure or weighing or measuring instrument with an appropriate device showing that the weight or measure or weighing or measuring instrument is correct and the date of the inspection, which device shall be placed

so as to be easily seen. He shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments which in his best judgment are not susceptible of repair, but any weight, measure or weighing or measuring instrument which shall be found to be incorrect, but which in his best judgment are susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "Out of Order." The owners or users of any weights or measures or weighing or measuring instruments which have been marked "Out of Order," as in this section provided, may have the same repaired or corrected within thirty days, but until the same have been repaired or corrected and tested as herein provided the owners or users thereof may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. When the same have been repaired or corrected the owner or user thereof shall notify the sealer and the sealer shall again test and prove the weight, measure, or weighing or measuring instrument, which had been found incorrect and marked as in this section provided, and until such weight, measure, or measuring or weighing instrument has been reinspected by the sealer and found correct, the same shall not be used or in any way disposed of by the owner. Any person who removes or obliterates any tag or device placed upon any weight, measure, or weighing or measuring instrument by the sealer as in this act provided, shall be guilty of a misdemeanor. When any weight, measure or weighing or measuring instrument has been repaired and corrected, as in this act provided, and has been reinspected and found correct by the sealer of weights and measures, as in this act provided, the sealer of weights and measures shall remove the tag or device with the words "Out of Order," and shall seal and mark such weight, measure, or weighing or measuring instrument in the manner provided for the marking of the same where upon inspection they are found correct.

"Out of order."

Removal of tags prohibited.

Penalty for possessing or using false weights and measures.

SEC. 32. Any person who, by himself, or his employee or agent, or as the employee or agent of another, shall use, in the buying or selling of any commodity, or retain in his possession a false weight or measure or weighing or measuring instrument, or shall offer or expose for sale, or sell, except as heretofore specifically allowed in section twenty-seven of this act, or use or retain in his possession any weight or measure

or weighing or measuring instrument in any county, city, town, or city and county in which there has been appointed a sealer of weights and measures in accordance with the provisions of this act, which has not been sealed by a sealer within one year, or who shall use or dispose of any condemned weight or measure, or weighing or measuring instrument contrary to law, or any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer or expose for sale or use or have in his possession for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure, and any person who, by himself, or his employee or agent, or as the employee or agent or another, shall sell or offer or expose for sale any commodity, produce, article or thing in a less quantity than he represents it to be or contain, shall be guilty of a misdemeanor. Possession of any false weight or measure or weighing or measuring instruments or records thereof shall be prima facie evidence of the fact that they were intended to be used in the violation of law. [*Amended, Stats. 1917, p. 1650. Also amended, Stats. 1915, p. 1316.*]

Sale of commodities at other than net weight, etc., misdemeanor.

SEC. 32*a*. No person shall by himself or his employee or agent, or as the employee or agent of another sell or offer or expose for sale any commodity, produce, article or thing at, by, or according to gross weight or measure, or at, by, as, of, or according to any weight, measure or count which is greater than the true net weight, measure or count thereof, or which is less than the standard net weight, standard net measure or standard net count, including tolerances, as such standards and tolerances are now or may hereafter be established pursuant to the provisions of this act. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [*Added, Stats. 1917, p. 1650.*]

Power of peace officers.

SEC. 33. The state superintendent, his deputy, all sealers and their deputies, in the performance of their official duties, shall have the same powers as are possessed by peace officers of this state.

Hindering sealers.

SEC. 34. Any person who shall hinder or obstruct in any way the state superintendent, or his deputy, or a sealer or his deputy, in the performance of their official duties, shall be guilty of a misdemeanor.

Refusing to exhibit weights and measures.

SEC. 35. Any person neglecting or refusing to exhibit any weight, measure, or weighing or measuring instrument of any kind, or appliances and accessories connected with any or all of such instruments or measures which is in his possession or under his control, to the state superintendent, or his deputy, or to a sealer or his deputy, for the purpose of allowing the same to be inspected and examined as in this act provided, shall be guilty of a misdemeanor.

Refusing to exhibit commodities.

SEC. 36. Any person, who by himself, or his employee or agent, or as a proprietor or manager, shall refuse to exhibit any article, commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the state superintendent, or to his deputy, or to a sealer or his deputy, for the purpose of allowing the same to be tested and proved as to the quantity contained therein as in this act provided, shall be guilty of a misdemeanor.

Penalty for false sealing.

SEC. 37. Any sealer who shall seal any weight, measure, balance or apparatus before first testing and making the same conform with the standards of the state, or who shall condemn any weight, measure, balance or apparatus without first testing the same, shall be deemed guilty of a misdemeanor.

Misdemeanor.

SEC. 38. Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

"Person."

SEC. 39. The word "person," as used in this act, shall be deemed to include person, firm or corporation.

Duty of officers of corporations.

SEC. 40. It shall be the duty of all officers, directors and managers of corporations, whose respective corporations use or keep for use, sell or offer for sale, any weights, measures, or weighing or measuring instruments which are subject to inspection by the provisions of this act, to comply with the provisions of this act on behalf of their respective corporations; and it shall be the duty of all officers, directors and managers of corporations, whose respective corporations offer for sale or keep for sale any commodity, produce, article or thing which is subject to inspection by the provisions of this act, to comply therewith on behalf of their respective corporations. In case any corporation shall violate any of the provisions of this act, the corporation and the officers thereof direcly concerned with the act or acts constituting such violation shall be severally guilty of a misdemeanor.

Sealing by state superintendent.

SEC. 41. Any sealing or testing of any weight, measure, weighing or measuring instrument by the state superintendent or his deputy shall have the same force and effect as a sealing or testing by a sealer or his deputy.

Appropriation.

SEC. 42. There is hereby appropriated out of the general fund of the state the sum of twelve thousand dollars for carrying into effect the provisions of this act.

Title of act.

SEC. 43. This act when cited or amended may be designated as the "weights and measures act." [*Amended, Stats. 1917, p. 1650.*]

NET CONTAINER ACT.

An act to provide for the indicating of the net quantity of foodstuffs and stuffs intended to be used or prepared for use as food for human beings, and medicine, and other commodities when sold or offered or exposed for sale in containers and providing for the indicating of quantity in the sale of commodities in respect to which there exists a definite trade custom, and providing penalties for the violation thereof. [*Title amended, Stats. 1919, Chapter 104.*]

[Approved May 27, 1913; Stats. 1913, p. 247. Amended, Stats. 1915, p. 1263; Stats. 1917, p. 87; Stats. 1919, Chapter 104.]

Title of act.

SECTION 1. This act shall be known as the Net Container Act.

Purpose of act.

SEC. 2. This act is designed to protect purchasers of any commodity within its provisions against deception as to the quantity or amount of the commodity purchased, and as against the seller shall be strictly construed with a view to effect its object.

Application of act.

SEC. 3. The provisions of this act shall apply to foodstuffs and stuffs intended to be used or prepared for use as food or medicine for human beings and shall apply to any commodity when sold, offered or exposed for sale in containers. [*Amended, Stats. 1919, Chapter 104. Also amended, Stats. 1915, p. 1263.*]

Net quantity plainly marked.

SEC. 4. Whenever any of the commodities within the provisions of this act are sold, or offered or exposed for sale, in containers, the net quantity of the contents of the container shall be plainly and conspicuously marked, branded, or otherwise indicated on the outside or top thereof or on a label or tag attached thereto.

Designation of quantity.

SEC. 5. The designation of the quantity of the commodity required by section four of this act shall be in terms of weight, measure or numerical count, subject however to the following provisions:

(*a*) The quantity of the contents so marked shall be the net amount of food or stuff or other commodity in the package or container.

(*b*) If the designation is by weight it shall be in terms of avoirdupois pounds and ounces; if the designation is in liquid measure it shall be in terms of the United States gallon of two hundred thirty-one cubic inches and its custom-

ary subdivisions, *i. e.*, in gallons, quarts, pints, or fluid ounces; *provided*, that, by like method, such designations may be in terms of the metric system of weight or measure. Designation of quantity.

(*c*) The quantity of solids shall be designated in terms of weight, and of fluids in terms of measure, except in case of an article in respect to which there exists a definite trade custom; in such case the designation shall be in terms of weight, or measure, or numerical count, in accordance with such custom.

(*d*) The quantity of the contents shall be designated in terms of weight or measure, unless the container be marked by numerical count and such numerical count gives accurate information as to the quantity of the food or other commodity in the package. When designation is by numerical count it shall be in English words or Arabic numerals.

(*e*) The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, but in such cases the designation must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(*f*) The quantity of viscous or semisolid foods, or of a mixture of solids and liquids, may be stated in terms of weight and measure. When products are packed in brine or other preserving fluids, the weight or measure of such brine or fluids shall not be included in the weight or measure of the edible or commodity indicated on the container. [*Amended, Stats. 1919, Chapter 104. Also amended, Stats. 1915, p. 1264; Stats. 1917, p. 87.*]

SEC. 6. The provisions of this act shall not apply— Wherein not applicable.

(*a*) To any sale of a commodity within the provisions of this act when such sale is made from bulk and the quantity is weighed, measured or counted for the immediate purpose of such sale.

(*b*) To a sale of any container of an ornamental or symbolic character with which a quantity of some commodity is sold as merely incidental.

(*c*) To a sale of a commodity in any container of a net weight of two ounces or less, or of a commodity in any container of a measure of two fluid ounces or less, or of a commodity in any container of a numerical count of six or less.

(*d*) To the sale of medicine, when prescribed by a licensed physician, veterinarian, or dentist;

or to medicinal or pharmaceutical preparations or mixtures of two or more medicinal substances. [*Amended, Stats. 1915, p. 1264.*]

Discrepancy due to unavoidable shrinkage, etc.

SEC. 7. It shall not be held to be a violation of the provisions of this act when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed, provided such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith.

Discrepancy in commodity received by seller.

SEC. 8. It shall not be held to be a violation of the provisions of this act when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed *provided*, that the seller purchased said commodity in said container, in good faith relying upon the said indication of the net contents thereof, and sold said commodity in said container without altering the contents thereof or the indication of the contents thereof; *and provided, further*, that the exemption of this section shall not apply to any sale unless the container had the name of a packer, manufacturer, wholesaler, or jobber thereon at the time the seller purchased it.

"Person."

SEC. 9. The term "person" used in this act shall include every person, firm, company, copartnership, society, association and corporation.

Container defined.

SEC. 10. The term container used in this act is hereby defined to be any receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put for sale, or to be offered or exposed for sale. No containers, boxes, or baskets wherein food products or other commodities are packed shall have a false bottom, or be so constructed as to facilitate the perpetration of deception or fraud. [*Amended, Stats. 1919, Chapter 104. Also amended, Stats. 1917, p. 88.*]

Penalty.

SEC. 11. Every person, who by himself or his agent, servant or employee violates or causes or permits to be violated any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than

five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

Repealed.

SEC. 12. All acts and parts of acts inconsistent with or in conflict with any of the provisions of this act are hereby repealed.

Containers complying with U. S. requirements.

(*a*) It shall not be held to be a violation of the provisions of this act to sell or offer for sale any commodity contained in a container which complies with the provisions and requirements of any act of congress or the opinions and regulations as issued by the secretary of agriculture and appertaining to net weight or measure.

Enforcement.

(*b*) The enforcement of the provisions of this act shall be under the supervision of the State Superintendent of Weights and Measures. [*Amended, Stats. 1915, p. 1265.*]

WEIGHMASTER ACT.

An act defining public weighmaster; describing his duties; providing for rules and regulations governing the performance of his duties; prescribing a bond and fixing the amount thereof; and providing penalties for any violation of the provisions of this act.

[Approved June 8, 1915; Stats. 1915, p. 1288. Amended, Stats. 1919, Chapter 348.]

Public weighmaster.

SECTION 1. All persons, firms, corporations, copartners or individuals engaged in the business of public weighing for hire, or any person, firm or corporation, who shall weigh or measure any commodity, produce, or article, and issue therefor a weight certificate which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce or article, is based, shall be known as a public weighmaster, and shall file a bond with the state superintendent of weights and measures in the sum of one thousand dollars for the faithful performance of his duties, and shall obtain from the state superintendent of weights and measures a seal for the stamping of weight certificates hereinafter provided for, which shall only be in such form as such superintendent may prescribe; *provided*, that nothing in this act shall apply to any scales, or to the owner or lessee thereof, which are situated wholly outside of any incorporated city or town, except where said scales are being used in the weighing of any commodity which has been or is being purchased by the owner or lessee therof, which are being used in the weighing of any commodity intended for storage for which a storage charge is made.

Bond.

Exception.

Seals.

(*a*) The said seals shall be the property of the state and shall be forfeited and returned to the state superintendent of weights and measures upon termination of the performance of the duties herein prescribed as being the duties of a public weighmaster. Such seal shall be of a form and design prescribed by the state superintendent and furnished by him at the expense of the weighmaster. Said seal shall be a recognized authority of accuracy when applied to weight certificates. [*Amended, Stats. 1919, Chapter 348.*]

Weight certificates.

SEC. 2. The state superintendent shall prescribe a form of weight certificates to be used by all public weighmasters, which certificates shall be known as the "state certificate of weights and measures," and shall state thereon the kind of product, the number of units of the same, the date of receipt of the product, the owner, agent or consignee, the total weight of the product, the vessel, railroad, team, or other means by which the product was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the product from a like kind. No certificate other than the one herein prescribed shall be used by public weighmasters.

Records.

SEC. 3. All public weighmasters shall keep and preserve correct and accurate records of all public weighings, as provided by this act, which records shall at all times be open for inspection by the State Superintendent of Weights and Measures, or his deputy.

Accurate and correct weight.

SEC. 4. All state certificates of weights and measures, as provided by this act, shall contain the accurate and correct weight of any and all commodities weighed when issued by the public weighmaster.

Penalty for issuing false certificate.

(*a*) Any public weighmaster who shall issue a state certificate of weights and measures giving a false weight or measure of any article or commodity weighed or measured by him, or his representative, to any person, firm or corporation, shall be guilty of a misdemeanor, and the state superintendent may direct and compel the return to him of the state seal, or declare his bond as public weighmaster forfeited, or both.

Penalty for false measurement, etc.

SEC. 5. Any person, firm, corporation, who shall request the public weighmaster, or any person employed by him to weigh any product, commodity, or article falsely or incorrectly, or who shall request a false or incorrect state certificate of weight and measure, or any person issuing a state certificate of weights and measures who is not a public weighmaster as provided for in this act, shall be guilty of a misdemeanor. [*Amended, Stats. 1919, Chapter 348.*]

Reweighing in case of doubt.

SEC. 6. When doubt or differences arise as to the correctness of the net or gross weight of any amount of part of any commodity, produce, or article for which a state certificate of weights and measures has been issued by a public weighmaster, the owner, agent, or consignee may, upon complaint to the state superintendent of weights and measures, or his deputy,

have said amount or part of the amount of any commodity, produce, or article, reweighed by the state superintendent of weights and measures, or a public weighmaster designated by him, upon depositing a sufficient sum of money to defray the actual cost of reweigh with the state superintendent of weights and measures. If, on reweighing, a difference in the original weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster responsible for the issuance of such faulty state certificate of weights and measures. All public weighmasters employing or designating any person to act for them as deputy public weighmaster, shall be responsible for all acts performed by such person, and the public weighmaster shall forward to the state superintendent of weights and measures the name and address of persons so appointed. [*Amended, Stats. 1919, Chapter 348.*]

Lots piled separately.

SEC. 7. All amounts, lots, shipments, or consignments of products, after having been weighed, shall be piled or stored separately, as near as can be, or in some manner marked in order that said amounts, lots, shipments, or consignments may be distinguished from each of a like kind. When any product is sold subject to public weighmaster weights, such weight shall be the true net weight of the product.

Net weight.

Net weight within the meaning of this act shall be the correct or actual weight of the commodity excluding the weight of the container. [*Amended, Stats. 1919, Chapter 348.*]

Penalty.

SEC. 7*a*. Any person violating any of the provisions of this act shall be guilty of a misdemeanor. [*Added, Stats. 1919, Chapter 348.*]

Appropriation.

SEC. 8. There is hereby appropriated out of the general fund of the state, three thousand dollars, for carrying into effect the provisions of this act.

Repealed.

SEC. 9. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

HAY BALING ACT.

An act relating to baling of hay; defining hay baler; providing regulations governing the baling of hay; providing for the sale of hay by net weight; providing penalties for any violation of the provisions of this act.

[Approved May 19, 1919.]

Definition.

SECTION 1. The term "baler" or "presser" as referred to in this act shall mean the person, firm, association, or corporation owning or having possession of or operating a hay press.

How weighed.

SEC. 2. Any person baling hay for compensation shall employ scales that have been tested and sealed by the sealer of weights and measures and any record of weight forming the basis in settlement for baling hay shall be the true net weight of the baled hay; and any record of weight forming the basis of settlement in the sale or purchase of baled hay shall be the true net weight of such baled hay.

Fraud in weight.

SEC. 3. No baler or presser of hay shall put or conceal in any such bale of hay anything whatever for the purpose of increasing the weight of such bale with intent to defraud.

How sold.

SEC. 4. Hay when sold, offered, or exposed for sale shall be sold by avoirdupois weight and a ton shall consist of two thousand pounds net weight; *providing, however,* that hay may be sold by the bale in which case the net weight of the bale shall be indicated on a tag securely fastened to the bale.

Broken bales.

SEC. 5. When any hay is shipped by a common carrier in bales and where such bales become broken, the approximate weight of such broken bales shall be included in the total weight of the hay shipped.

Penalty.

SEC. 6. Any person, firm or corporation, violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars, or more than one hundred dollars.

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